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BEFORE THE

Federal Communications Commission

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

WASHINGTON, D. C. 20554

In re Application of

RICHARD P. BOTT, II

Assignor

and

WESTERN COMMUNICATIONS, INC.

Assignee

For Assignment of the Construction
Permit of Unbuilt Station KCVI(FM),
Blackfoot, Idaho

To: Chief, Mass Media Bureau

93-155
File No. BAPH-920917GO

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AUDIO SERVICES
DIVISION

REQUEST FOR LEAVE TO RESPOND AND RESPONSE

Richard P. Bott, II, permittee of unbuilt Station KCVI(FM), Blackfoot, Idaho, herein requests leave to submit a limited response to the "Reply to Opposition to Petition to Deny" filed by Radio Representatives, Inc. ("RRI") with regard to the above-captioned application. In support of this request, the following is stated:

Request for Leave to Respond

Although Mr. Bott believes that RRI's petition to deny and its reply are without merit, Mr. Bott does not seek to file a response for the purposes of rearguing his position. Rather, he seeks to correct certain factual misstatements in RRI's reply. Thus, Mr. Bott believes that acceptance and consideration of the response

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offered herewith will be of assistance to the Commission in the prompt disposition of RRI's allegations.

Response

1. At pp. 13-14 of its reply, RRI argues the fact Station KRSS(FM), Chubbuck, Idaho, adopted a religious format, the format Mr. Bott had chosen to use on his nearby Blackfoot station, did not justify Mr. Bott's decision to assign the Blackfoot construction permit. As part of that argument, RRI states KRSS(FM) has not yet constructed its authorized Class C2 facilities. That statement is incorrect. Station KRSS(FM) was given authority to construct Class C2 facilities with the grant of construction permit File No. BPH-900612IA. See Attachment A hereto. On April 6, 1992, the licensee of Station KRSS(FM) informed the Commission that the station had begun operation under automatic program test authority with the facilities specified in that construction permit. See Attachment B hereto.

2. At pp. 14-15 of its reply, RRI refers to Station KCIV, Mount Bullion, California, as "another Bott facility." In that regard, RRI states that KCIV has more competitors than would Mr. Bott's Blackfoot station, and that only a supposed 10% of the programs carried on "Bott-owned Station KCIV" are carried on Station KRSS(FM). It should be noted, however, that KCIV is owned

~~not by Richard P. Bott, II, but by Bott Communications, Inc., of which Mr. Bott, II holds only 20% of the stock.~~^{1/}

This response is not intended to be all inclusive, but rather intended to point out two most obvious factual errors in RRI's reply.

WHEREFORE, in light of all circumstances present, it is respectfully requested that leave to respond be GRANTED and that the response set forth herein be CONSIDERED.

Respectfully submitted,

RICHARD P. BOTT, II

By


HARRY C. MARTIN
MATTHEW H. MCCORMICK

Its Counsel

Reddy, Begley & Martin
1001 22nd Street, N.W.
Suite 350
Washington, D.C. 20037

December 8, 1992

^{1/} The remaining 80% is owned by Bott Broadcasting Company, which is 100% jointly owned by Richard P. Bott, Sr., and Sherley Bott. Mr. Bott, II, is an officer and director of Bott Broadcasting Company and Bott Communications, Inc.

ATTACHMENT A

United States of America

FEDERAL COMMUNICATIONS COMMISSION

FM BROADCAST STATION CONSTRUCTION PERMIT



Official Mailing Address:

CHUBBUCK COMMUNITY BROADCASTERS, INC
P.O. BOX Z
POCATELLO, ID 83206

Authorizing Official:

Dale E. Bickel
Supervisory Engineer, FM Branch
Audio Services Division
Mass Media Bureau

Grant Date: DEC 11 1990

Call sign: KRCD-FM

This permit expires 3:00 am.
local time 18 months after
grant date specified above

Permit File No.: BPH-900612IA

Subject to the provisions of the Communications Act of 1934, as amended, subsequent acts and treaties, and all regulations heretofore or hereafter made by this Commission, and further subject to the conditions set forth in this permit, the permittee is hereby authorized to construct the radio transmitting apparatus herein described. Installation and adjustment of equipment not specifically set forth herein shall be in accordance with representations contained in the permittee's application for construction permit except for such modifications as are presently permitted, without application, by the Commission's Rules.

This permit shall be automatically forfeited if the station is not ready for operation within the time specified (date of expiration) or within such further time as the Commission may allow, unless completion of the station is prevented by causes not under the control of the permittee. See Sections 73.3598, 73.3599 and 73.3534 of the Commission's Rules.

Equipment and program tests shall be conducted only pursuant to Sections 73.1610 and 73.1620 of the Commission's Rules.

Name of permittee:

CHUBBUCK COMMUNITY BROADCASTERS, INC.

Station Location:

ID-CHUBBUCK

Frequency (MHz): 98.5

Channel: 253

Class: C2

Call sign: KRCD-FM

Permit No.: BPH-900612IA

Hours of Operation: Unlimited

Transmitter location (address or description):

SW 1/4 of SE 1/4 of SW 1/4 of SE 1/4 of Sect. 3, T6S, R35E;
6 miles east of downtown Chubbuck, Idaho.

Transmitter: Type accepted. See Sections 73.1660, 73.1665 and 73.1670
of the Commission's Rules.

Transmitter output power: As required to achieve authorized ERP.

Antenna type: (directional or non-directional): Non-directional

Antenna coordinates: North Latitude: 42 55 15.0
West Longitude: 112 20 44.0

	Horizontally Polarized Antenna	Vertically Polarized Antenna
Effective radiated power in the horizontal plane (kW) :	6.2	6.2
Height of radiation center above ground (meters) :	122.0	122.0
Height of radiation center above		

Obstruction marking and lighting specifications for antenna structure:

It is to be expressly understood that the issuance of these specifications is in no way to be considered as precluding additional or modified marking or lighting as may hereafter be required under the provisions of Section 303(q) of the Communications Act of 1934, as amended.

Paragraph 1.0, FCC Form 715 (March 1978):

Antenna structures shall be painted throughout their height with alternate bands of aviation surface orange and white, terminating with aviation surface orange bands at both top and bottom. The width of the bands shall be equal and approximately one-seventh the height of the structure, provided however, that the bands shall not be more than 100 feet nor less than 1 and 1/2 feet in width. All towers shall be cleaned and repainted as often as necessary to maintain good visibility.

Paragraph 3.0, FCC Form 715 (March 1978):

There shall be installed at the top of the structure one 300 m/m electric code beacon equipped with two 620- or 700-watt lamps (PS-40, Code Beacon type), both lamps to burn simultaneously, and equipped with aviation red color filters. Where a rod or other construction of not more than 20 feet in height and incapable of supporting this beacon is mounted on top of the structure and it is determined that this additional construction does not permit unobstructed visibility of the code beacon from aircraft at any normal angle of approach, there shall be installed two such beacons positioned so as to insure unobstructed visibility of at least one of the beacons from aircraft at any normal angle of approach. The beacons shall be equipped with a flashing mechanism producing not more than 40 flashes per minute nor less than 12 flashes per minute with a period of darkness equal to approximately one-half of the luminous period.

Paragraph 5.0, FCC Form 715 (March 1978):

At approximately two-fifths of the over-all height of the tower one similar flashing 300 m/m electric code beacon shall be installed in such position within the tower proper that the structural members will not impair the visibility of this beacon from aircraft at any normal angle of approach. In the event this beacon cannot be installed in a manner to insure unobstructed visibility of it from aircraft at any normal angle of approach, there shall be installed two such beacons. Each beacon shall be mounted on the outside of diagonally opposite corners or opposite sides of the tower at the prescribed height.

Paragraph 14.0, FCC Form 715 (March 1978):

On levels at approximately four-fifths, three-fifths and one-fifth of the over-all height of the tower, at least one 116- or 125-watt lamp (A21/TS) enclosed in an aviation red obstruction light globe shall be installed on each outside corner of the structure.

Paragraph 21.0, FCC Form 715 (March 1978):

All lighting shall burn continuously or shall be controlled by a light sensitive device adjusted so that the lights will be turned on at a north sky light intensity level of about 35 foot candles and turned off at a north sky light intensity level of about 58 foot candles.

ATTACHMENT B

LAW OFFICES
BROWN FINN & NIETERT, CHARTERED
SUITE 660
1920 N STREET, N.W.
WASHINGTON, D.C. 20036
TEL (202) 887-0900
FAX (202) 487-0126

April 6, 1992

CERTIFICATE OF SERVICE

I, Marilyn L. Phillips, hereby certify that on this 8th day of December, 1992, copies of the foregoing **REQUEST FOR LEAVE TO RESPOND AND RESPONSE** were hand delivered or mailed, first class, postage prepaid, to the following:

Daniel J. Alpert, Esquire
1250 Connecticut Ave., N.W.
Washington, D.C. 20036

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David D. Oxenford, Jr., Esquire
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MARILYN L. PHILLIPS

* Hand Delivered